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Paper No. 4

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508 SECOND STREET
SUITE 201
DAVIS, CA 95616

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JUN 13 2002

OFFICE OF PETITIONS

In re Application of :
Campbell et al. :
Application No. 10/043,038 : **DECISION GRANTING**
Filed: November 7, 2001 : **PETITION**
Attorney Docket No. SUN-P6578-PIP :

This is a decision on the petition filed March 12, 2002, to establish that Figures 2 and 3 were part of the originally filed application.

On November 7, 2001, the application was filed.

On March 7, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)" stating that the application had been accorded a filing date of November 7, 2001, and advising applicants that Figures 2 and 3 described in the specification appeared to have been omitted.

In response, the present petition was filed alleging that Figures 2 and 3 were deposited on November 7, 2001. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "Drawings 3 pages" on November 7, 2001.¹ A review of the file indicates the presence of page 1 which contains Figure 1 and page 3 which contains Figure 4. Petitioner has also submitted a copy of the missing documentation- page 2 of the drawings which contains Figures 2 and 3.

Upon review of the record, the Figures, deposited on November 7, 2001, have not been located. However, the evidence is convincing that the application papers deposited on November 7, 2001, included Figures 2 and 3, and that the Figures were subsequently misplaced in the PTO. In view of the above, the petition is **granted**. The copy of Figures 2 and 3 submitted with the petition will be used for examination purposes.

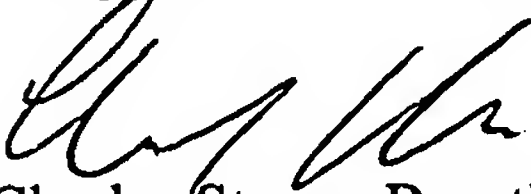
The petition fee of \$130 will be credited to petitioner's deposit account.

The Notice mailed March 7, 2002, was sent in error and is hereby vacated.

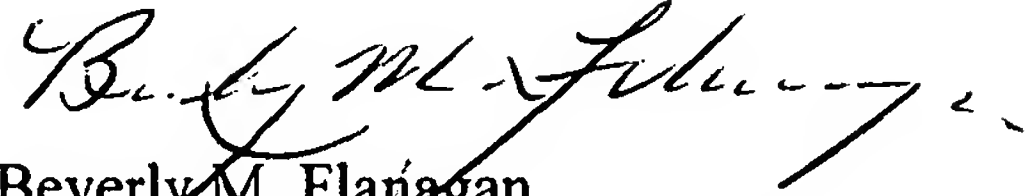
The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 7, 2001, using the application papers filed on November 7, 2001, and the copy of Figures 2 and 3 filed on March 12, 2002.

¹ Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.



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